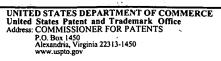


United States Patent and Trademark Office



APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,650	01/11/2002	Beth A. Goins	UTSK:343US/TMB	9390
7590 10/06/2003			EXAMINER	
Thomas M. Boyce, Esq. FULBRIGHT & JAWORSKI L.L.P. Suite 2400 600 Congress Avenue Austin, TX 78701			NGUYEN, DAVE TRONG	
			ART UNIT	PAPER NUMBER
			1632	. 9
Austin, IA /			DATE MAILED: 10/06/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner		:	Application No.	Applicant(s)				
Portion for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILLING DATE OF THIS COMMUNICATION. THE MAILLING DATE OF THIS COMMUNICATION. THE MAIL BY IN the property is writing the provisions of 37 CRF 1.13(go). In on event, however, may a reply be timely field and the provision of 37 CRF 1.13(go). In one event, however, may a reply be timely field and the provision of 37 CRF 1.13(go). In one event, however, may a reply be timely field and the provision of 37 CRF 1.13(go). In one event, however, may a reply be timely field and the communication. If the secred for may be precised above in less than thirty (80) caps, a reply deply when vive septiment of relay (b) of caps the consistent reply. If the secred for may be precised above in less than the provision of the provisio	Office Action Summary		10/044,650	GOINS ET AL.				
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1) Responsive to communication(s) filed on 24 June 2003. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-28 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) 7-28 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) cacepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some *c) None of: 1. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application have been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121. Attachment(s) 10 Notice of References Cited (PTO-892) 30 Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5) Other:	 THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any 							
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Election/Restriction

Species Restriction to one of the following inventions is required under 35 U.S.C. 121:

The presently pending claims are generic to a plurality of disclosed patentably distinct species comprising:

- A specific species of an active agent as listed in claims 9-12.
- A specific species a phospholipids as listed in claim 5.

Applicant is further required under 35 U.S.C. 121 to elect a single disclosed species from the respective claims as listed and cited above, even though this requirement is traversed. The combined features of a particular active agent and/or phospholipid, for example, are distinct structurally and would not necessarily overlap with one another when a prior art search is conducted.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Because these species are structurally distinct, and because a search of one does not necessarily overlap with that of another species, it would be unduly burdensome for the examiner to search and/or consider patentability of all of the claims as presently pending.

Applicant is advised that the response to this requirement to be complete must

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include an species election of the invention to be examined even though the requirement be traversed.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Dave Nguyen* whose telephone number is **(703) 305-2024**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Deborah Reynoles*, may be reached at **(703) 305-4051.**

Any inquiry of a general nature or relating to the status of this application should be directed to the *Group receptionist* whose telephone number is **(703) 308-0196**/

Dave Nguyen Primary Examiner Art Unit: 1632

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